



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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State Controller, Sacramento

JAMES E. SPEED
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Capitol Square, Sacramento
December 18-19, 2002
NOTICE AND AGENDA**

WEDNESDAY, DECEMBER 18, 2002

BOARD/ASSESSORS' MEETING - (convenes at 9:30 a.m.) in Room 121**

- **Automated E-Mail Group Pilot Project**
Discussion of the upcoming project to develop an automated e-mail mailing list to disseminate information about current assessment issues and public information notices.
- **Legal Issues**
Discussion of current legal issues and recent court cases affecting assessors and Board of Equalization
- **Legislative Update**
Discussion of recently enacted property tax legislation
- **State Fiscal Situation**
Discussion of the State Budget
- **Taxpayers' Rights Advocate**
Discussion of assessment issues covered in the Taxpayers' Rights Advocate's Annual Report

BOARD COMMITTEE MEETINGS* (convenes at 1:30 p.m.) in Room 121

❖ **PROPERTY TAX COMMITTEE**

- Dr. Connell, Chair
Mr. David Gau, Staff (916) 445-1516
- Assessors' Handbook Section 510, Assessment of Taxable Possessory Interests

❖ **BUSINESS TAXES COMMITTEE**

- Mr. Parrish, Chair
Mr. Ramon Hirsig, Staff (916) 445-1441
- Proposed regulation regarding requirements for electronic funds transfer reporting (Regulation 1707, Electronic Funds Transfer)

BOARD MEETING (convenes upon adjournment of the Business Taxes Committee) in Room 121**

- ❖ **PROPERTY TAX HEARING – PETITION FOR REASSESSMENT OF STATE ASSESSED PROPERTY**
 - Pacific Bell (279), 182116 – “CF”
- ❖ **BUSINESS TAXES APPEAL HEARING**
 - Employers Insurance Company of Wausau, 167703 – “CF”
Wausau Business Insurance Company, 167704 – “CF”
Wausau Underwriters Insurance Co., 167705 – “CF”
- ❖ **TAX PROGRAM NONAPPEARANCE MATTERS - ADJUDICATORY**
 - A. Property Tax Matters**
 - **Petition for reassessment of Unitary Value**
 1. Yolo Shortline Railroad Company (898), 183735 – “CF”

❖ **TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT****B. Special Taxes Matters**

- Relief of Penalty
 1. Nextel of California, Inc., 173509
 2. CSE Safeguard Insurance Company, 195727 – “CF”
 3. California Capital Insurance Co., 197247 – “CF”
 4. Universal Underwriters Ins. Co., 196676 – “CF”
- Denials of Claims for Refund
 5. Sam’s West, Inc., 165811

C. Special Taxes Matters

- Credits and Cancellations
 1. Maria Chavez, 89000005040
- Refunds
 2. Union Oil Company of California, 89000950660
 3. Thrifty Payless, Inc., 196043
 4. Thrifty Payless, Inc., 196992
 5. Thrifty Payless, Inc., 196995
 6. American Procurement & Lgstcs Co., 196049
 7. Grocers Specialty Company, 196052
 8. The Vons Companies, Inc., 196051
 9. Tosco Corporation, 186398
 10. IDS Life Insurance Company, 196675 – “CF”

D. Property Tax Matters

- **Petitions for Reassessment of 2002 Unitary Value**
 1. Global Crossing Telecommunications, Inc. (2207), 183960 – “CF”
 2. MCI WorldCom Network Services, Inc. (2274), 183961 – “CF”
 3. Qwest Communications Corporation (2463), 183583 – “CF”
 4. West Coast P.C.S. (2745), 183769 – “CF”
 5. Time Warner Telecom of California, L.P. (7522), 183270 – “CF”
 6. Global Crossing North American Networks, Inc. (7536), 183958 – “CF”
 7. Level 3 Communications LLC (7761), 184140 – “CF”
 8. McLeodUSA Telecommunications Services, Inc. (7785), 183717 – “CF”
 9. McLeodUSA Network Services, Inc. (7914), 183713 – “CF”
- **Petitions for reassessment and Penalty Abatement on 2002 Unitary Value**
 10. Global Crossing Bandwidth, Inc. (2351), 183957 – “CF”
 11. Metromedia Fiber Network Services, Inc. (7837), 183739 – “CF”
 12. Universal Broadband Networks (7839), 183414 – “CF”
- **Petition for Penalty Abatement on 2002 Unitary Value**
 13. Western Integrated Networks of California, LLC (7930), 183770 – “CF”
- **Petition for Correction of Allocated Assessment**
 14. Yolo Shortline Railroad Company (898), 185765 – “CF”
- **Petition for Reassessment on 2002 Private Railroad Car Tax**
 15. Joseph Leasing LTD. (6287), 193912 – “CF”
- **Petition for Reassessment of Unitary Escape Assessments**
 16. UNOCAP-Tosco Pipeline Company (480), 184067 – “CF”

❖ **TAX PROGRAM NON-APPEARANCE MATTERS-NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE****E. Property Tax Matters**

- **Unitary Escaped Assessments**
 1. GoBeam, Inc. (7893) – “CF”
 - Telecom House Inc. (7934) – “CF”
- **Audits**
 2. Epoch Networks, Inc. (7698) – “CF”
 3. Williams Communications LLC (7819) – “CF”
 4. Concert Global Networks USA LLC (7881) – “CF”
- **Board Roll Changes**
 5. 2001 and 2002 State-Assessed Rolls – “CF”

❖ CHIEF COUNSEL MATTERS**F. Property Tax Matters - State Assessee Petitions for Reassessment of Unitary Value****➤ Consideration of Findings and Decisions**

1. ICG Telecom Group, Inc. (2462), 183702
2. ICG Telecom of San Diego, Inc. (2433), 183704
3. Bay Area Teleport, Inc. (2131), 183706
4. Cingular Wireless, LLC (2756), 183267
5. Pacific Bell Wireless, LLC (2748), 183269
6. Southwestern Bell Mobile Systems, LLC (2755), 183268
7. All American Pipeline, L.P. (465), 183744

❖ PUBLIC HEARINGS**➤ TIMBER YIELD TAX RATE**

The Revenue and Taxation Code requires that the Board adjust the timber yield tax rate in December of each year to the nearest one-tenth of one percent for the next calendar year. The adjustment is to be in the same proportion as the change from the previous tax year to the present one of the average general property tax rate in the rate adjustment counties.

➤ TIMBER HARVEST VALUES

On or before December 31, the Board after consultation with the Timber Advisory Committee and after public hearings held pursuant to the Administrative Procedure Act, shall designate areas containing timber having similar growing, harvesting and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values. (Revenue and Taxation Code section 38204)

➤ PROPOSED AMENDMENT TO PROPERTY TAX RULE 281, "APPRAISER" DEFINED, RULE 282, TEMPORARY CERTIFICATION, RULE 283, PERMANENT CERTIFICATION AND THE ADOPTION OF RULE 284, RETENTION AND REVOCATION OF APPRAISER CERTIFICATE

Rules 281, 282, and 283 are amended and Rule 284 is proposed to make specific the requirements and criteria for the certification of appraisers and auditor-appraisers employed by counties and the state (i.e., the Board of Equalization) who value real and personal property for purposes of ad valorem property taxation.

➤ PROPOSED AMENDMENT TO SALES AND USE TAX REGULATION 1591, MEDICINES AND MEDICAL DEVICES

Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to (1) provide that prosthetic and orthotic devices qualify as medicines if they come into sustained physical contact with the body of the patient (and satisfy the other criteria in the statute; (2) sales of Continuous Passive Motion Devices are exempt from tax; (3) move the exemption for sales of certain enteral feeding devices from subdivision (b) to subdivision (e) for clarity; (4) provide that sales of tissue expanders are exempt from tax under defined conditions, and to correct clerical errors; and (5) specify that shoe inserts are excluded from the term "orthotic devices."

➤ PROPOSED ADOPTION OF SALES AND USE TAX REGULATION 1671.1, REBATES AND INCENTIVES

Proposed Regulation 1671.1, Rebates and Incentives, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The regulation is proposed to promulgate in regulatory form current Board policies regarding when rebates and buy-downs are included in gross receipts or sales price, with the new requirement that the customer must provide the retailer with a coupon in order for tax to apply to any amounts rebated to that retailer.

➤ **PROPOSED AMENDMENT OF SALES AND USE TAX REGULATION 1802, PLACE OF SALE AND USE FOR PURPOSES OF BRADLEY BURNS UNIFORM LOCAL SALES AND USE TAXES**

The regulation is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 7205. Amendments are proposed to (1) clarify that to be a place of sale within the meaning of section 7205, a sales office must participate in the sale; (2) correct a clerical error in an operative date; and (3) state that when sales are negotiated out of state but the property is shipped from an in-state stock of tangible personal property belonging to the retailer the local sales tax revenues derived from such sales are to be allocated directly to the location of such in-state stock of goods under defined conditions, and subject to an operative date.

➤ **PROPOSED AMENDMENTS TO CONFLICT OF INTEREST CODE, REGULATION 6001, GENERAL PROVISION**

There are no proposed changes to the Conflict of Interest Code itself. The proposed changes to Appendix A reflect the organization and classification changes that have taken place at the Board since the Conflict of Interest Code was last amended.

THURSDAY, DECEMBER 19, 2002

BOARD MEETING (convenes at 9:30 a.m.) in Room 121**

❖ **SPECIAL PRESENTATIONS**

- Superior Accomplishment Award Program
 - Barbara Beck
 - Brian Wiggins
 - Bryan Niemeyer
 - Pam Bowens
 - Alan Dannen
 - Shirley Turner
 - Erica Fisher
 - Laura SooHoo
 - Jayme Bautista
 - Annette Hale

❖ **CLOSED SESSION**

- Discussion and approval of staff recommendations regarding settlement cases (R&T Code § 7093.5)
- Discussion of potential Government Code section 15606 action regarding San Francisco County Assessor ruling No. 2002-01
- Discussion and action on Personnel Matters (Govt. Code § 11126(a))

❖ **ADMINISTRATIVE SESSION**

- **CITY OF LAGUNA HILLS APPEAL HEARING REQUEST**
- **2003-04 BASELINE BUDGET**
- **CONSENT AGENDA**
 - ❑ Approval of Retirement Resolutions
 - Edward R. Fosha
 - Earle P. Gutman
 - James K. McManigal, Jr.
 - Richard Newell
 - Susan J. Rainwater
 - ❑ Approval of Board Resolutions
 - Marcy Jo Mandel

- Jean Alexander
- Melanie Darling
- Arnulfo Hernandez, Jr.
- Katherine Mac Donald
- Anne Mazur
- Elizabeth McKillop
- Rita Perry
- Tonya Reese
- Rebecca Ruppert
- Ken Topper
- Shirlee Wong
- Sally Lee
- ❑ Approval of proposed revision to Form-345, Notice of Business Change
- ❑ Approval of proposed revisions to Compliance Policy and Procedures Manual, *Preface* and proposed revisions to Compliance Policy and Procedures Manual Chapter 7, *Collections*
- ❑ Approval of proposed revisions to Audit Manual Chapter 5, *Penalties*
- ❑ Approval of proposed revision to Audit Manual Chapter 10, *Occasional Sales-Sale of a Business*
- ❑ Approval of Property Tax Welfare Exemption Claims for Low-Income Housing – Proposed New Limited Partnership Forms, BOE-267L1 and BOE-267L2
- ❑ Approval of the 2003 Administrative Redistricting Plan
- **BOARD COMMITTEE REPORTS**
 - ❑ Approval of the December 18, 2002 Board Committee Minutes
 - Property Tax Committee
 - Business Taxes Committee
- **SPECIAL PRESENTATIONS**
 - Retirement Resolution Presented by Mr. Chiang
 - Board Resolution Presented by Mr. Andal
 - Board Resolutions Presented by Mr. Klehs

❖ CHIEF COUNSEL MATTERS

A. Rulemaking

- Section 100 Change (No Regulatory Effect)
 1. Property Tax Rule 122.5, Fixtures
- Request for Authorization to Publish
 2. Sales and Use Tax Regulation 1803.5, Long Term Leases of Motor Vehicles
- Petition to Amend Property Tax Rule
 3. Property Tax Rule 462.180, Change in Ownership-Legal Entities

B. Taxpayers' Bill of Rights Reimbursement Claim

- Consideration of Claim
 1. Jennifer Franco Smith, 162415

❖ TAX PROGRAM NON-APPEARANCE MATTERS - ADJUDICATORY

C. Legal Appeals Matters

- Memo Opinion
 1. A1 Printing & Graphics, Inc., 47968
- Cases Heard But Not Decided
 2. Assigned Seating & MFG Group, Inc., 89000218870
Assigned Seating & MFG Group, Inc., 89000218880
 3. Telstar Cellular Corporation, 89000486500
Recomm Wireless Inc., 89002078210

D. Franchise and Income Tax Matters

- Decisions
 1. J. Allen Beebe, 88463
Ocat, Inc., 88699

2. George Graham Hardie, 127537
3. Stretto Enterprises, 76184
4. Wilshire Restaurant Group, Inc., 166408
- Matters for Board Consideration
5. Amir H. Ghassemi, 112341
- Opinion on Petition for Rehearing
6. Crisa Corporation, 34424
7. Pacific Corp., 90027
- Petitions for Rehearing
8. Marc Feldman, 130126
9. Dale Mitchell Heindell, 103375
10. Baxter Healthcare Corporation, 150881

❖ **TAX PROGRAM NON-APPEARANCE MATTERS – CONSENT**

E. Legal Appeals Matters

- Petitions for Rehearing
 1. Keith Schultz, 66283
Keith Schultz, 66285
Keith Schultz, 114641
 2. Barnes & Noble.com, 89872
 3. Yamaha Motor Corporation U.S.A., 102973
Yamaha Motor Corporation U.S.A., 89000448380
 4. John Thomas Askew, 63567
- Hearing Notice Sent-No Response
- 5. Vahe Bidanian, 152301
- Hearing Notice Sent-Appeal Waived
- 6. Paradise Galleries, Inc., 89000620580
- Hearing Request Withdrawn
- 7. Becker CPA Review Corp., 105867
- 8. Skip's Music Incorporated, 145954
- 9. Streamlogic Corporation, 141855
- 10. Avnet, Inc., 89000228820
- Notice Sent-Hearing Request Withdrawn
- 11. The Phoebus Company Inc., 47417
The Phoebus Company Inc., 494549
The Phoebus Company Inc., 89000259970

E.1. Legal Appeals Matters

- Petition for Rehearing
 1. Lifescan, Inc., 29592
Lifescan, Inc., 37314
Lifescan, Inc., 48966

F. Franchise and Income Tax Matters

- Decisions
 1. Stephen D. Abrams, 169561
 2. Becky Chee, 162181
 3. Paul S. Cowan, 162182
 4. Quy V. Duong, 166622
 5. Patricia C. Jordan, 172411
 6. Carole K. Lawing, 144670
 7. Paul R. Marrone, 169288
 8. Blaine B. McCafferty, 93412
 9. Neva J. McDannald, 155492
 10. Martin Pacheco, 169951
 11. Kenneth I. Slon, 167732
 12. Yi-Shin Tsai, 167973
 13. Allan Wilkinson, 168010
- Petitions for Rehearing
- 14. Cary Jay Behar, 92485

G. Homeowner and Renter Property Tax Assistance Matters

- Decisions
 1. Steve K. Bell, 165759
 2. Taisir Ahmad Farha, 156258
 3. Ruth B. Jones, 168191
 4. Fai Lai, 173452
 5. Jahkaii J. Miller, 169378
 6. Judy H. Moua, 171038
 7. Dandelario D. Nepangue, 170298
 8. Paris Provins, 171033
 9. Patrick Dennis Shields, 165723
- Petitions for Rehearing
 10. Alice A. McGee, 170347

H. Sales and Use Tax Matters

- Redeterminations
 1. ChanceCarson, Inc., 191798
 2. Fleet National Bank, 153371
 3. MercMed, LLC, 153345
- Relief of Penalty
 4. Installation Software Tech, 196501
- Denials of Claims for Refund
 5. Compucom Systems, Inc., 195688
 6. New Edge Network, Inc., 197303
 7. Pacific Bell, 158215
 8. Lifecore Biomedical, Inc., 197147

I. Sales and Use Tax Matters

- Credits and Cancellations
 1. Sungard Treasury Systems, Inc., 197056
 2. ICN Pharmaceuticals, Inc., 196270
 3. Hardees Food Systems, Inc., 150405
 4. Aixtron, Inc., 196946
 5. Kelly Wallace Black, 197698
 6. CSCBD, Inc., 196678
 7. Mike's Mobile Windshield, Inc., 197004
- Refunds
 8. Time Finance Company, 194862
 9. Sargent & Berman Inc., 55063
 10. Bayside Record Distributors, Inc., 168541
 11. Kobold's Nursery, Inc., 196401
 12. Toppan Electronics, Inc., 141453
 13. Point Loma Credit Union, 194860
 14. Ford Motor Company, 169859
 15. Pilkington North America, Inc., 89000847590
 16. Compucom Systems, Inc., 104249
 17. Kinko's Inc., 195245
 18. Awans Enterprises, Inc., 195232
 19. March Community Credit Union, 142573
 20. New Edge Network, Inc., 82715
 21. All Computer Solutions, Inc., 145840
 22. Time Oil Co., 145841
 23. City of Glendale, 155682
 24. Visa International Service Assn., 196525
 25. BCI Coca-Cola Bottling Co., L. A., 195695
 26. BCI Coca-Cola Bottling Co., L. A., 115253
 27. Lifecore Biomedical, Inc., 144778
 28. Novadigm, Inc., 91480

❖ CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS

- ❑ Thomas B. Allen, 144126
- ❑ OTN, Inc. and Affiliates, 162176
- ❑ Clyde J. Berg, 154076
- Carl E. and Mary Ann Berg, 154075
- ❑ John M. and Joy E. Richards, 134949
- ❑ David R. and Patricia A. Walsh, 162751
- ❑ Mary K. Shiells, 169850
- ❑ Polaroid Corporation, 62415
- ❑ Chris and Diane Chandler, 162178

❖ BUSINESS TAXES APPEALS HEARINGS

- ❑ Burton M. and Joellen J. McChesney, 91698
- ❑ Steven G. Puglisi, 100269
- ❑ James D. Green and Brian J. Wilmes, 66259
- ❑ EGS and Company Trust, 135923
- ❑ Harry & Sons Automotive Services Inc., 62097
- ❑ McDonnell Douglas Corporation, 106386
- ❑ IBJTC Leasing Corporation, 89000857190

If you would like specific information regarding items on this Board Meeting Agenda Notice please telephone (916) 322-2270 or e-mail: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Deborah Pellegrini, Chief
Board Proceedings Division

* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.

** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.

"CF" Constitutional Function - The Deputy State Controller may not participate in this matter under Government Code Section 7.9.

Agenda items occur sequentially. When circumstances warrant, the Chair may modify the order of items as they appear on the agenda. Any committee agenda item may be brought to the Board at its next meeting. The hearing location is accessible to the disabled. If you require special assistance, please contact Gary Evans at (916) 445-4394, or e-mail Gary.Evans@boe.ca.gov, to make special arrangements.